

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 2/27/02 Item 3.d

File Number  
CPA99-01-024

Application Type  
Conditional Use Permit Amendment

Council District  
3

Planning Area  
Central

Assessor's Parcel Number(s)  
235-13-014, -015, -016, -017

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: John Davidson

Location: Northeast corner of N. Fifth and N. Seventh Streets (1132 North 7<sup>th</sup> Street)

Gross Acreage: 7.7

Net Acreage: 7.7

Net Density: NA

Existing Zoning: LI Light Industrial

Existing Use: Electrical contractor corporation yard, 70,000 square feet of office space, and a 39,000 square foot research and development building.

Proposed Zoning: No change

Proposed Use: 8,000 square foot mezzanine addition, new 81-spaces parking structure, proposed off-site parking arrangement

### GENERAL PLAN

Completed by: JED

Land Use/Transportation Diagram Designation  
Light Industrial

Project Conformance:  
☒ Yes ☐ No  
☒ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JED

North: US 101, I-880 interchange connector ramps

LI Light Industrial

East: US 101, light industrial

LI Light Industrial

South: Light Industrial

LI Light Industrial

West: Light Industrial

LI Light Industrial

### ENVIRONMENTAL STATUS

Completed by: JED

☐ Environmental Impact Report found complete  
☐ Negative Declaration circulated on  
☒ Negative Declaration adopted on August 17, 1999

☐ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: JED

Annexation Title: Orchard No. 5

Date: August 10, 1948

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval  
☐ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
☐ Action  
☒ Recommendation

### APPLICANT/OWNER/DEVELOPER

Synergism Properties  
1132 N. Seventh St.  
San Jose, CA 95112

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: JED

Department of Public Works, Fire Department

See Conditions of Approval

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Other Departments and Agencies

See Conditions of Approval.

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GENERAL CORRESPONDENCE

None received

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ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Cupertino Electric, an electrical contractor business, is requesting a Conditional Use Permit Amendment for 8,000 square feet of mezzanine office space, and a parking structure that would provide a net increase of 87 additional parking spaces in the LI Light Industrial Zoning District. The subject site is located at the northeast corner of N. Fifth and N. Seventh Streets (1132 North 7<sup>th</sup> Street).

The mezzanine office space is incidental to the corporation yard use, which is a Conditional Use in the LI Light Industrial District. The applicant is also proposing an off-site parking arrangement in that the proposed parking structure is on a separate legal parcel from the mezzanine expansion it supports. The parking structure and other buildings are coordinated elements of the corporation yard as a whole.

The site is accessed from three existing full access driveways from North 7<sup>th</sup> Street, and contains two buildings, including a 70,000 square foot office and a 23,500 square foot equipment storage building. Surrounding land uses include the US 101/I-880 interchange to the north, US 101 and light industrial uses to the east, and light industrial uses to the south and west.

On August 25, 1999, Cupertino Electric received a Conditional Use Permit to allow a corporation yard, a new 39,000 square foot building for research and development, and the adaptive re-use of a 70,000 square foot manufacturing building for corporate offices. As of this time, the research and development building has not been built.

**ENVIRONMENTAL REVIEW**

An Initial Study was prepared for this project and a Negative Declaration was adopted by the Director of Planning on August 17, 1999. The Initial Study included a traffic study, a soils/groundwater contamination study, and a tree survey. The original Initial Study found that all significant environmental effects could be mitigated to a less than significant level. An addendum to the original Initial Study has been prepared, and has found that the proposed expansion would not have any additional significant environmental impacts.

## GENERAL PLAN CONFORMANCE

The primary use of an electrical contractor corporation yard with associated offices is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Light Industrial. The proposed office expansion is incidental to, and supportive of, the primary industrial use on the property, and is therefore consistent with the Light Industrial land use designation. Stand-alone office uses would be considered inconsistent with the Light Industrial designation.

## ANALYSIS

The primary project issues include conformance with LI Light Industrial Zoning District, and the project design.

**Conformance with LI Light Industrial Zoning District.** The project conforms to the relevant LI Light Industrial development regulations, including setbacks, height, landscaping, and control of lighting. Parking is also provided in accordance with ordinance requirements. The proposed office expansion within Building B would not conform as a stand-alone use, but is consistent as a subordinate use of the property. Building B currently houses Cupertino Electric's corporate office and functions in conjunction with the corporation yard, the site's primary industrial use.

**Project Design.** The project is part of an overall plan to modernize an aging industrial property. The proposed parking structure will provide sufficient maneuvering room to allow smooth circulation and minimize interference among on-site uses. Perimeter landscaping, including significant tree planting, is proposed to screen parking and loading areas from public view. Construction of the proposed parking structure and expansion of the mezzanine are in keeping with the previously-approved plans for the development of the corporation yard.

## RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Light Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the LI Light Industrial Zoning District.
3. A Negative Declaration has been granted for this project which indicates there is no substantial evidence that the project will have a significant effect on the environment. An addendum has been prepared for the original Negative Declaration, which concludes that there are no additional significant environmental effects beyond those contemplated in the original Negative Declaration.

- a. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
4. The subject site is 7.7 acres in size, and contains a 70,000 square foot office building and a 23,500 square foot vehicle maintenance/repair and storage building. A 39,000 square foot research and development building has been previously approved, but has yet to be constructed.
5. The project proposes an 8,000 square foot mezzanine expansion within building B on Assessor's Parcel Number 235-13-014 and a parking structure that provides 87 additional parking spaces on assessor's Parcel Number 235-13-016.
6. Surrounding land uses include the US 101/I-880 freeway interchange to the north, US 101 and light industrial uses to the east, and light industrial uses to the south and west.
7. The primary use on the property is the corporation yard and the operation of the electrical contractor business. The office use present is incidental to, and entirely supportive of, the primary industrial use.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. Sufficient maneuvering room will be provided on site to allow smooth circulation and minimize interference with other uses.
5. The proposed and existing structures are comparable in terms of mass, scale and height.
6. The architectural elements of the proposed and existing structures are integrated into a harmonious whole.
7. The exterior wall and roof materials of the proposed and existing structures match or are compatible in terms of color and texture.
8. Sufficient landscaping will be provided to screen the parking structure from adjacent uses and from the public right of way.
9. The number of off-street parking spaces provided adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of the Zoning Code

10. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### **CONDITIONS PRECEDENT**

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.
2. **Site Development Permit.** This permit fulfills the requirement for a Site Development Permit.

## CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, " Parking Structure for Cupertino Electric," dated August 6, 2001, on file with the Department Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.

6. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
7. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 25 feet above grade in general, or in the case of the parking structure, shall not exceed 25 feet above the deck of the parking structure.
9. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set.
11. **Sign Design.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
12. **Colors and Materials.** All building colors and materials are to be as specified on the approved plan set.
13. **Street Trees.** Street trees shall be planted on the street frontage to the satisfaction of the City Arborist. A permit for this is required from the Department of Transportation, (408) 277-2762.
14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
15. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-03980) to the satisfaction of the Director of Public Works:
  - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
  - b. *Grading Permit.* A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading operation.

- c. *Soils Report.* A soils report addressing the potential hazard of liquefaction must be submitted to and accepted by the City's Engineering Geologist prior to the issuance of a Public works clearance or a grading permit.
- d. *Flood Zone.* An Elevation Certificate for the proposed parking structure, based on construction drawings, is required prior to the issuance of a building permit.
- e. *Floodproofing.* Elevate the lowest finished floor of the parking structure to 54.00' 1929 National Geodetic Vertical Datum or flood proof to the same elevation.
- f. *Substantial Improvement.* The project must comply with the Substantial Improvement policy for improvements to existing structures (i.e. addition and improvement to the existing building B) in a Special Flood Hazard Area. If the cost of the proposed improvements exceed 50% of the current market value of the existing structure, then the entire structure must fully comply with the City's Floodplain management requirements. Contact the Floodplain manager at 277-5161 for more information.

16. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, CPA99-01-024, shall be printed on all construction plans submitted to the Building Division.
- b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- c. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

17. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.



If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

18. **Fire Flow.** Required fire flow for the site is 3,750 gpm, or as otherwise approved in writing by the Fire Chief.
19. **Fire Hydrants.** Th needed fire flow shall be provided from a minimum of four fire hydrants and shall be spaced apart on average 350 feet from the proposed project. Fire flow may be reduced upon construction of a four-hour wall, without openings, as per the adopted Fire Code.
20. **Fire Extinguisher System.** Installation of an automatic fire extinguishing system shall comply with all of the requirements as per the adopted fire code. Submit automatic fire extinguishing system plans to the San Jose Fire Department's Bureau of Fire Prevention for review and approval before installing the system.
21. **Fire Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protection shall be reviewed by the Fire Department.
22. **Private Hydrants.** All private hydrants shall not be interconnected to the automatic fire sprinkler system. All water main distribution lines shall be reviewed and approved by the San Jose Fire Department's Bureau of Fire Prevention staff.
23. **Fire Alarm.** A Fire alarm shall be installed in accordance with the Fire and Building codes.
24. **Gate Access.** All electrical gates shall have a manual means of opening subject to the approval of the Fire Department.
25. **Building Addresses.** All premise identification signage shall be clearly visible at night as well as daytime in accordance with Section 901.4.4 of the San Francisco Fire Code, 1999 Edition.
26. **Egress.** All means of egress, including locking devices, special door controls, and door identification markings shall comply with Article 12 of the Uniform Fire Code and subject to the approval of a required Fire Department Inspection for compliance. Call Fire Protection Engineer Patrick Chew at 277-8751 for more information.
27. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.

28. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
29. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
30. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
31. **Office Use.** The primary allowed use on the property is the corporation yard and the operation of the electrical contractor business. Any office use on the property must be incidental to, and entirely supportive of, the primary industrial use. Stand-alone office uses, unrelated to a primary industrial use, are prohibited.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

- c: Building Division (2), Engineering Services  
 Synergism Properties, 1132 N. Seventh Street, San Jose, CA 95112  
 Michael Crivello, Don L. Beck Associates, 10050 N. Foothill Blvd., Cupertino, CA 95014-5601